

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS**

JAB PRODUCE, INC.

Plaintiff

v.

BIMEX, INC. a/t/a

Roselle International Food Market, et al.

Defendants.

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: Civil Action No. 1:08-CV-01899

: Hon. Milton I. Shadur

**AFFIDAVIT OF MARY JEAN FASSETT IN SUPPORT OF  
PLAINTIFF'S REQUEST FOR ATTORNEYS' FEES**

Mary Jean Fassett, one of the attorneys for Plaintiff, JAB Produce, Inc., submits the following affidavit in support of Plaintiff's request for attorneys' fees:

1. I was originally admitted to practice in the Commonwealth of Virginia in 1987. I have been admitted to practice before several U.S. District Court bars, including this Court in 2003. I have practiced commercial and other civil litigation continuously since my admission, and have since 1994 concentrated my practice in matters related to The Perishable Agricultural Commodities Act ("PACA").

2. I am a member of the Washington, D.C. firm of McCarron & Diess, which concentrates its practice in PACA matters, and have performed all work noted on the attached billing statement myself. My standard billing rate is currently \$285.00 per hour. I am familiar with the rates charged by other attorneys of similar practice areas and tenure, and believe \$285.00 per hour to be a fair and reasonable rate to award attorneys of my specialty and tenure for the type of work I performed in this matter.

3. I have reviewed my files and time records for this matter, and confirm that the attached billing statements (Exhibit 1 hereto) are true and accurate accounts of time spent by

McCarron & Diess in this action as PACA counsel for JAB Produce, Inc. from December 1, 2007 through June 30, 2008.

4. Thus, Plaintiff requests an award of attorneys' fees and costs as set forth on the attached billing statements in the total amount of \$3,769.94, plus fees and costs incurred by local counsel, William B. Kohn, Esq.

Pursuant to 28 U.S.C. 1746, I certify under penalty of perjury that the foregoing is true and correct.

Respectfully submitted,

7/17/08  
Dated

Mary Jean Fassett  
MARY JEAN FASSETT  
PACA Counsel for Plaintiff

# Exhibit 1

**MCCARRON & DRESS**

Suite 310  
4900 Massachusetts Avenue, NW  
Washington, DC 20016

202-364-0400

Attn: Steve Serck

JAB Produce  
Chicago Intl. Produce Market  
2404 S. Wolcott Ave.  
Unit 23  
Chicago, IL 60608

Statement Date: December 31, 2007  
Statement No. 4243  
Account No. 536.006  
Page: 1

RE: v. Bimex d/b/a Roselle International

***Payments received after 12/31/2007 are not included on this statement.***

		<u>Fees</u>		
			<u>Hours</u>	
12/04/2007	MJF	Review facsimile from client; review PACER to see if any actions pending against defendant; review Marano case docket; prepare demand letter to defendant with cc to Marano's counsel.	0.70	199.50
12/06/2007	MJF	Tele conference with Roselle Intl; facsimile to JAB re same.	0.25	71.25
12/07/2007	MJF	Tele conference with Roselle re demand letter	0.20	57.00
12/10/2007	MJF	Tele conference with JAB re discussions with Roselle re paying off PACA debt owed to JAB	0.10	28.50
		For Current Services Rendered	1.25	356.25
Recapitulation				
<u>Timekeeper</u>		<u>Hours</u>	<u>Rate</u>	<u>Total</u>
Mary Jean Fassett		1.25	\$285.00	\$356.25
Total Current Work				356.25
<b>Balance Due</b>				<u><u>\$356.25</u></u>

Please note your account number on your payment.  
Please call if you have any questions.

**MCCARRON & DIES**

Suite 310  
4900 Massachusetts Avenue, NW  
Washington, DC 20016

202-364-0400

Attn: Steve Serck

JAB Produce  
Chicago Intl. Produce Market  
2404 S. Wolcott Ave.  
Unit 23  
Chicago, IL 60608

Statement Date: January 31, 2008  
Statement No. 4635  
Account No. 536.006  
Page: 1

RE: v. Bimex d/b/a Roselle International

***Payments received after 01/31/2008 are not included on this statement.***

**Previous Balance** \$356.25

Fees

		<u>Hours</u>	
01/04/2008			
MJF	Email to JAB re status of weekly payments	0.10	28.50
01/17/2008			
MJF	Review Marano court docket and dismissal order; email to client re status.	0.20	57.00
	For Current Services Rendered	0.30	85.50

Recapitulation

<u>Timekeeper</u>	<u>Hours</u>	<u>Rate</u>	<u>Total</u>
Mary Jean Fassett	0.30	\$285.00	\$85.50

Total Current Work 85.50

Payments

01/29/2008	Payment 1/18/08 #16609	-356.25
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**Balance Due** \$85.50

Please note your account number on your payment.  
Please call if you have any questions.

**MCCARRON & DIES**

Suite 310  
4900 Massachusetts Avenue, NW  
Washington, DC 20016

202-364-0400

Attn: Steve Serck

JAB Produce  
Chicago Intl. Produce Market  
2404 S. Wolcott Ave.  
Unit 23  
Chicago, IL 60608

Statement Date: March 1, 2008  
Statement No. 5514  
Account No. 536.006  
Page: 1

RE: v. Bimex d/b/a Roselle International

***Payments received after 03/01/2008 are not included on this statement.***

<b>Previous Balance</b>		\$85.50
	<u>Payments</u>	
02/28/2008	Payment 2/15/08 #16861	-85.50
<b>Balance Due</b>		<u><u>\$0.00</u></u>

Please note your account number on your payment.  
Please call if you have any questions.

**MCCARRON & DIES**

Suite 310  
4900 Massachusetts Avenue, NW  
Washington, DC 20016

202-364-0400

Attn: Steve Serck

JAB Produce  
Chicago Intl. Produce Market  
2404 S. Wolcott Ave.  
Unit 23  
Chicago, IL 60608

Statement Date: March 31, 2008  
Statement No. 5800  
Account No. 536.006  
Page: 1

RE: v. Bimex d/b/a Roselle International

***Payments received after 03/31/2008 are not included on this statement.***

Fees

		<u>Hours</u>		
03/07/2008				
MJF	Demand letter to Roselle Intl	0.30		85.50
03/30/2008				
MJF	Research PACER for any pending lawsuits against defendants; research home addresses for individual defendants; email to client re status and whether JAB wishes to file suit.	0.40		114.00
	For Current Services Rendered	0.70		199.50
	Recapitulation			
<u>Timekeeper</u>		<u>Hours</u>	<u>Rate</u>	<u>Total</u>
Mary Jean Fassett		0.70	\$285.00	\$199.50
	Total Current Work			199.50
	<b>Balance Due</b>			<b><u>\$199.50</u></b>

Please note your account number on your payment.  
Please call if you have any questions.

**MCCARRON & DIES**

Suite 310  
4900 Massachusetts Avenue, NW  
Washington, DC 20016

202-364-0400

Attn: Steve Serck

JAB Produce  
Chicago Intl. Produce Market  
2404 S. Wolcott Ave.  
Unit 23  
Chicago, IL 60608

Statement Date:

April 30, 2008

Statement No.

6179

Account No.

536.006

Page: 1

RE: v. Bimex d/b/a Roselle International

***Payments received after 04/30/2008 are not included on this statement.***

<b>Previous Balance</b>			\$199.50
		<u>Fees</u>	
		<u>Hours</u>	
04/02/2008			
MJF	Prepare complaint, summonses, civil cover sheet and attorney appearance forms	1.50	427.50
MJF	Electronically file Complaint, Exhibits, Civil Cover Sheet and Summonses.	0.40	114.00
04/04/2008			
MJF	Review summonses issued by clerk's office; email to local counsel re service address for registered agent for corporate defendant	0.20	57.00
04/09/2008			
MJF	Review scheduling order and calendar status conference date	0.10	28.50
04/11/2008			
MJF	Email from local re inability to serve certain defendants; facsimile to local of addresses and phone numbers	0.20	57.00
04/17/2008			
MJF	Email from JAB re receipt of \$25 payment/reply to same.	0.10	28.50
MJF	Tele conference with counsel for defendant Ziggy Kruczalak re proposed settlement offer.	0.20	57.00
04/22/2008			
MJF	Review settlement offer from defendant Ziggy's counsel; forward to client; review client's response; reply to same	0.20	57.00
MJF	Email from client re counter offer to make to defendant to settle matter	0.10	28.50
For Current Services Rendered		3.00	855.00



JAB Produce  
 Account No. 536.006  
 RE: v. Bimex d/b/a Roselle International

Statement Date: 04/30/2008  
 Statement No. 6179  
 Page No. 2

# Recapitulation

<u>Timekeeper</u>	<u>Hours</u>	<u>Rate</u>	<u>Total</u>
Mary Jean Fassett	3.00	\$285.00	\$855.00

# Expenses

04/11/2008	Postage - Federal Express charges 3/08	28.44
	Total Expenses	28.44

# Advances

04/02/2008	Filing fee - U.S. District Court	350.00
	Total Advances	350.00
	Total Current Work	1,233.44

<b>Balance Due</b>	<b>\$1,432.94</b>
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Please note your account number on your payment.  
 Please call if you have any questions.

**MCCARRON & DIES**

Suite 310  
4900 Massachusetts Avenue, NW  
Washington, DC 20016

202-364-0400

Attn: Steve Serck

JAB Produce  
Chicago Intl. Produce Market  
2404 S. Wolcott Ave.  
Unit 23  
Chicago, IL 60608

Statement Date:

May 29, 2008

Statement No.

6539

Account No.

536.006

Page: 1

RE: v. Bimex d/b/a Roselle International

***Payments received after 05/29/2008 are not included on this statement.***

**Previous Balance** \$1,432.94

Fees

		<u>Hours</u>	
05/06/2008			
MJF	Email from/to local re status of serving defendants and any settlement; email to counsel for defendant Ziggy	0.20	57.00
MJF	Internet research re more specific addresses and background info for defendants Ziggy and Kaz; facsimile of same to local counsel.	1.00	285.00
05/20/2008			
MJF	Email from/to local counsel re status of service on defendants; status conference tomorrow	0.20	57.00
05/21/2008			
MJF	Emails from/to defense counsel for Bimex and Ziggy re settlement	0.25	71.25
MJF	Email to client re settlement proposal from defendant	0.20	57.00
05/22/2008			
MJF	Review JAB's email re settlement offer	0.10	28.50
	For Current Services Rendered	1.95	555.75

Recapitulation

<u>Timekeeper</u>	<u>Hours</u>	<u>Rate</u>	<u>Total</u>
Mary Jean Fassett	1.95	\$285.00	\$555.75

Total Current Work 555.75

Payments

05/05/2008	Payment 4/18/08 #17487	-199.50
05/28/2008	Payment 5/16/08 #17739	-1,233.44
	Total Payments	-1,432.94

JAB Produce  
Account No. 536.006  
RE: v. Bimex d/b/a Roselle International

Statement Date: 05/29/2008  
Statement No. 6539  
Page No. 2

**Balance Due**

\$555.75

Please note your account number on your payment.  
Please call if you have any questions.

**MCCARRON & DIES**

Suite 310  
4900 Massachusetts Avenue, NW  
Washington, DC 20016

202-364-0400

Attn: Steve Serck

JAB Produce  
Chicago Intl. Produce Market  
2404 S. Wolcott Ave.  
Unit 23  
Chicago, IL 60608

Statement Date: June 30, 2008  
Statement No. 6922  
Account No. 536.006  
Page: 1

RE: v. Bimex d/b/a Roselle International

***Payments received after 06/30/2008 are not included on this statement.***

<b>Previous Balance</b>			\$555.75
		<u>Fees</u>	
		<u>Hours</u>	
05/29/2008			
MJF	Prepare trust chart calculating interest and fees; email to/from client re counter-offer to defendant's settlement proposal.	0.40	114.00
05/30/2008			
MJF	Email to client re status of settlement negotiations	0.10	28.50
06/03/2008			
MJF	Draft settlement pleadings with Bimex and Defendant Kruczalak; email to/from local counsel; revise settlement pleadings.	1.10	313.50
	MJF	Email draft settlement pleadings to Bimex counsel for review and comment.	0.25 71.25
06/04/2008			
MJF	Review defendants' proposed changes; email to defense counsel re issues with two proposed changes.	0.20	57.00
	MJF	Review defense counsel's changes to Stip and Order; reply; revise Stip and Order	0.40 114.00
06/05/2008			
MJF	Email from/to opposing counsel re execution of Stipulation and Order	0.10	28.50
	MJF	Prepare JAB Rule 7.1 statement	0.10 28.50
06/09/2008			
MJF	Email from/to opposing counsel re first payment under Settlement with defendant Kruzcalak	0.10	28.50
	MJF	Email to JAB re first settlement payment to be received	0.10 28.50

JAB Produce  
 Account No. 536.006  
 RE: v. Bimex d/b/a Roselle International

Statement Date: 06/30/2008  
 Statement No. 6922  
 Page No. 2

		<u>Hours</u>	
06/10/2008			
MJF	Facsimile from client re first payment received; email to opposing counsel re status of settlement paperwork	0.10	28.50
06/17/2008			
MJF	File Stipulation and Order re payment plan with Bimex and Ziggy; facsimile to Bimex counsel of same	0.20	57.00
	MJF	Begin preparing default pleadings	0.75 213.75
06/18/2008			
MJF	Finish drafting memorandum of law in support of default judgment; draft affidavit of MJF re fees; draft affidavit of Steve Serck in support of motion for default.	0.70	199.50
06/27/2008			
MJF	Facsimile to counsel for Bimex attaching Stipulation and Order signed by Judge	0.10	28.50
	For Current Services Rendered	4.70	1,339.50

#### Recapitulation

<u>Timekeeper</u>	<u>Hours</u>	<u>Rate</u>	<u>Total</u>
Mary Jean Fassett	4.70	\$285.00	\$1,339.50

Total Current Work	1,339.50
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#### Payments

06/17/2008	Payment 6/6/08 #17939	-555.75
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<b>Balance Due</b>	<b><u>\$1,339.50</u></b>
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Please note your account number on your payment.  
 Please call if you have any questions.